

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JANET HILL,)
)
Plaintiff,)
)
v.) CIVIL ACTION FILE
) NO. 1:21-cv-03750-WMR-CCB
)
COMMUNITY LOAN SERVICING f/k/a)
BAYVIEW LOAN SERVICING, and)
SHELLPOINT MORTGAGE)
SERVICING,)
)
)
Defendants.)
)

**DEFENDANTS' RESPONSE AND OPPOSITION TO PLAINTIFF'S
PRO SE MOTION TO REMAND [DOC. 17]**

Defendants Community Loan Servicing f/k/a Bayview Loan Servicing (“Bayview”) and NewRez, LLC d/b/a Shellpoint Mortgage Servicing (“Shellpoint” and collectively “Defendants”), by and through their undersigned counsel, and pursuant to Local Rule 6 file this Response and Opposition to Plaintiff’s *pro se* Motion to Remand [Doc. 17] as follows:

Factual Background

This case was originally filed by Plaintiff – through counsel - in the Superior Court of Fulton County, Georgia on August 2, 2021. [Doc. 1-1, Ex. A].

On September 10, 2021, Defendants timely removed the case to this Court. [Doc. 1].

On September 17, 2021, Defendants filed a motion to dismiss and a motion to stay. [Docs. 4, 5].

On October 7, 2021, Plaintiff – through counsel – filed a response to Defendants’ motion to dismiss. [Doc. 9].

On October 7, 2021, this Court granted Defendants’ motion to stay. [Doc. 10].

On October 15, 2021, Plaintiff – *pro se* – filed a motion seeking additional time from this court. [Doc. 12].

On October 29, 2021, this Court held a hearing and Magistrate Judge Bly made clear that the Court will not consider *pro se* filed motions when the party is represented by counsel. [Doc. 13]. The Court has issued orders consistent with that position. [Docs. 13, 16].

Undaunted, on November 15, 2021, the Plaintiff – *pro se* – filed a motion seeking to remand this case back to the state court. [Doc. 17].

On November 22, 2021 the Plaintiff filed a motion to withdraw her attorney(s) of record. [Docs. 18, 19].

As of the date of this filing, Plaintiff is still represented by counsel as this Court has not permitted Plaintiff’s counsel of record to withdraw from this case.

Argument and Citation to Authority

The Court has the inherent power to control its docket and litigants in order to maintain judicial efficiency. *See Martin-Trigona v. Shaw*, 986 F.2d 1384, 1386-87 (11th Cir. 1993) (“Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions”); *Edelen v. Campbell Soup Co.*, 265 F.R.D. 676, 690 (N.D. Ga. 2010) (internal citations omitted) (“courts may enter orders or injunctions appropriate to protect both the courts and the rights of litigants in the federal system”).

This Court has repeatedly denied *pro se* motions filed by individuals who are represented by counsel. *See Durden v. State Farm Fire & Cas. Co.*, No. 1:15-CV-3971-WSD, 2017 WL 3723118, at *6 (N.D. Ga. Aug. 29, 2017) (“Plaintiffs' Pro Se Motions are denied for failure to comply with Local Rule 83.1(D)(2).”); *Way v. Sims*, No. 1:08-cv-3849, 2009 WL 10670654, at *5 (N.D. Ga. Dec. 14, 2009) (denying a pro se motion for reconsideration for failure to comply with Local Rule 83.1(D)(2)).

In this case, Plaintiff continues to clog the Court's docket with *pro se* filings when the Court has made it clear that such motions will not be considered as she is represented by counsel. [Docs. 13, 16]. Currently pending before this Court is Plaintiff's *pro se* motion to remand. [Doc. 17]. As of the date of this filing, Plaintiff

is still represented by counsel as this Court has not permitted Plaintiff's counsel of record to withdraw from this case. LR 83.1(D)(2), 83.1(E)(2)(d), NDGa. As a matter of law, Plaintiff may not yet appear or act *pro se* in this action. LR 83.1(D)(2), NDGa. Therefore, this Court should deny Plaintiff's *pro se* motion to remand since this Court has not permitted Plaintiff's counsel of record to withdraw from this case to date. LR 83.1(D)(2), 83.1(E)(2)(d), NDGa.

In the alternative, should this Court consider the merit's of Plaintiff's *pro se* motion to remand [Doc. 17] and/or grant the Plaintiff's motion to withdraw her attorney(s) of record [Docs. 18, 19], then Defendants respectfully request that this Court grant Defendants fourteen (14) days from the date of such Order to timely file a substantive response and opposition to the Plaintiff's *pro se* motion to remand [Doc. 17].

Conclusion

Defendants request the Court deny Plaintiff's *pro se* motion to remand [Doc. 17], or in the alternative Court grant Defendants fourteen (14) days from the date of an Order on Plaintiff's motion to withdraw her attorney(s) of record [Docs. 18, 19] to timely file a substantive response and opposition to the Plaintiff's *pro se* motion to remand [Doc. 17].

Respectfully submitted this 24th day of November, 2021.

/s/ Keith S. Anderson

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CERTIFICATE OF SERVICE, FONT AND MARGINS

I hereby certify that on the undersigned date, I electronically filed the foregoing ***DEFENDANT'S RESPONSE AND OPPOSITION TO PLAINTIFF'S PRO SE MOTION TO REMAND [DOC. 17]*** with the Clerk of the Court using the CM/ECF System, which will electronically deliver a copy to counsel of record, and served a true and correct copy of same on the undersigned individual(s) via First-Class Mail, postage prepaid, addressed to:

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I further certify that I prepared this document in 14 point Times New Roman font and complied with the margin and type requirements of this Court.

This 24th day of November, 2021.

/s/ Allison Rhadans
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